

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Ashby, et al.

H.J.R. No. 125

## A JOINT RESOLUTION

1 proposing a constitutional amendment creating the broadband  
2 infrastructure fund to assist in the financing of broadband and  
3 telecommunications services projects in the state.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article III, Texas Constitution, is amended by  
6 adding Section 49-d-16 to read as follows:

7 Sec. 49-d-16. (a) In this section:

8 (1) "Comptroller" means the comptroller of public  
9 accounts of the State of Texas or its successor.

10 (2) "Fund" means the broadband infrastructure fund.

11 (b) The broadband infrastructure fund is created as a  
12 special fund in the state treasury outside the general revenue  
13 fund.

14 (c) The fund consists of:

15 (1) appropriations from the legislature for deposit to  
16 the credit of the fund;

17 (2) money transferred or deposited to the credit of  
18 the fund by this constitution or by general law;

19 (3) revenue that the legislature by general law  
20 dedicates for deposit to the credit of the fund;

21 (4) investment earnings and interest earned on money  
22 in the fund; and

23 (5) gifts, grants, and donations to the fund.

24 (d) Money in the fund shall be administered by the

1 comptroller. Money from the fund may be used, without further  
2 appropriation, only for the expansion of access to and adoption of  
3 broadband and telecommunications services, including:

4 (1) the development, construction, reconstruction,  
5 and expansion of broadband and telecommunications infrastructure  
6 or services;

7 (2) the operation of broadband and telecommunications  
8 infrastructure;

9 (3) the provision of broadband and telecommunications  
10 services, including services authorized by general law to be funded  
11 by the universal service fund; and

12 (4) the reasonable expenses of administering and  
13 managing the investments of the fund.

14 (e) The legislature by general law shall provide for the  
15 manner in which the assets of the fund may be used, subject to the  
16 limitations of this section. Money in the fund may be used in  
17 conjunction with other funds or financial resources, including  
18 money from the federal government, in accordance with procedures,  
19 standards, and limitations established by federal law and general  
20 law of this state.

21 (f) Not later than January 15, 2024, the comptroller shall  
22 transfer \$5 billion from the economic stabilization fund to the  
23 fund.

24 (g) For purposes of Section 22, Article VIII, of this  
25 constitution:

26 (1) money in the fund is dedicated by this  
27 constitution; and

1           (2) an appropriation of state tax revenues from the  
2 economic stabilization fund for the purpose of depositing money to  
3 the credit of the fund is treated as if it were an appropriation of  
4 revenues dedicated by this constitution.

5           (h) Unless extended by adoption of a concurrent resolution  
6 approved by a record vote of two-thirds of the members of each house  
7 of the legislature, this section expires on September 1, 2035. A  
8 resolution suspends the expiration of this section until September  
9 1 of the 10th year following the adoption of the resolution.

10           (i) Immediately before the expiration of this section, the  
11 comptroller shall transfer any unexpended and unobligated balance  
12 remaining in the fund to the economic stabilization fund.

13           SECTION 2. The following temporary provision is added to  
14 the Texas Constitution:

15           TEMPORARY PROVISION. (a) This temporary provision applies  
16 to the amendment to Article III of this constitution as proposed by  
17 the 88th Legislature, Regular Session, 2023, creating the broadband  
18 infrastructure fund to assist in the financing of broadband and  
19 telecommunications services projects in the state.

20           (b) The change made to Article III of this constitution by  
21 the amendment described in Subsection (a) takes effect January 1,  
22 2024.

23           (c) This temporary provision expires January 1, 2025.

24           SECTION 3. This proposed constitutional amendment shall be  
25 submitted to the voters at an election to be held November 7, 2023.  
26 The ballot shall be printed to permit voting for or against the  
27 proposition: "The constitutional amendment creating the broadband

H.J.R. No. 125

1 infrastructure fund to assist in the financing of broadband and  
2 telecommunications services projects in the state."

ADOPTED

MAY 18 2023

By: Huffman

Substitute the following for \_\_\_ J.R. Lacey Spaw Deputy of the Senate

H. J.R. No. 125

By: Jean Huffman

C.S. \_\_\_ J.R. No. \_\_\_

A JOINT RESOLUTION

1 proposing a constitutional amendment creating the broadband  
2 infrastructure fund to expand high-speed broadband access and  
3 assist in the financing of connectivity projects.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article III, Texas Constitution, is amended by  
6 adding Section 49-d-16 to read as follows:

7 Sec. 49-d-16. (a) In this section:

8 (1) "Comptroller" means the comptroller of public  
9 accounts of the State of Texas or its successor.

10 (2) "Fund" means the broadband infrastructure fund.

11 (b) The broadband infrastructure fund is created as a  
12 special fund in the state treasury outside the general revenue  
13 fund.

14 (c) The fund consists of:

15 (1) money transferred or deposited to the credit of  
16 the fund by this constitution, general law, or the General  
17 Appropriations Act;

18 (2) revenue that the legislature by general law  
19 dedicates for deposit to the credit of the fund;

20 (3) investment earnings and interest earned on money  
21 in the fund; and

22 (4) gifts, grants, and donations to the fund.

23 (d) Money in the fund shall be administered by the  
24 comptroller. Money from the fund may be used only for the expansion

1 of access to and adoption of broadband and telecommunications  
2 services, including:

3 (1) the development, construction, reconstruction,  
4 and expansion of broadband and telecommunications infrastructure  
5 or services;

6 (2) the operation of broadband and telecommunications  
7 infrastructure;

8 (3) the provision of broadband and telecommunications  
9 services; and

10 (4) the reasonable expenses of administering and  
11 managing the investments of the fund.

12 (e) The legislature by general law shall provide for the  
13 manner in which the assets of the fund may be used, subject to the  
14 limitations of this section. Money in the fund may be used in  
15 conjunction with other funds or financial resources, including  
16 money from the federal government, in accordance with procedures,  
17 standards, and limitations established by federal law and general  
18 law of this state.

19 (f) For purposes of Section 22, Article VIII, of this  
20 constitution:

21 (1) money in the fund is dedicated by this  
22 constitution; and

23 (2) an appropriation of state tax revenues for the  
24 purpose of depositing money to the credit of the fund is treated as  
25 if it were an appropriation of revenues dedicated by this  
26 constitution.

27 (g) Unless extended by adoption of a concurrent resolution

1 approved by a record vote of two-thirds of the members of each house  
2 of the legislature, this section expires on September 1, 2035. A  
3 resolution suspends the expiration of this section until September  
4 1 of the 10th year following the adoption of the resolution.

5 (h) Immediately before the expiration of this section, the  
6 comptroller shall transfer any unexpended and unobligated balance  
7 remaining in the fund to the general revenue fund.

8 SECTION 2. The following temporary provision is added to  
9 the Texas Constitution:

10 TEMPORARY PROVISION. (a) This temporary provision applies  
11 to the amendment to Article III of this constitution as proposed by  
12 the 88th Legislature, Regular Session, 2023, creating the broadband  
13 infrastructure fund to expand high-speed broadband access and  
14 assist in the financing of connectivity projects.

15 (b) The change made to Article III of this constitution by  
16 the amendment described in Subsection (a) of this section takes  
17 effect January 1, 2024.

18 (c) This temporary provision expires January 1, 2025.

19 SECTION 3. This proposed constitutional amendment shall be  
20 submitted to the voters at an election to be held November 7, 2023.  
21 The ballot shall be printed to permit voting for or against the  
22 proposition: "The constitutional amendment creating the broadband  
23 infrastructure fund to expand high-speed broadband access and  
24 assist in the financing of connectivity projects."

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 19, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HJR125** by Ashby (Proposing a constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.), **As Passed 2nd House**

There would be an indeterminate cost to the state due to unknown amounts and timing of any transfers or deposits to the new Broadband Infrastructure Fund (BIF).

The cost to the state for publication of the resolution is \$204,406.

The resolution would amend Article III of the constitution, adding Section 49-d-16, which creates the Texas Broadband Infrastructure Fund (BIF) in the state treasury outside of General Revenue.

The BIF would be administered by the Comptroller, and would be used to expand broadband and telecommunication services in the state. The BIF would consist of transfers or deposits made by the constitution, general law, or the General Appropriations Act. It could also consist of dedicated revenues, investment earnings and interest, and any gifts, grants, or donations to the fund. Money in the fund would be constitutionally dedicated, and therefore, not subject to the spending limit provided by Section 22, Article VIII of the Constitution.

The bill would require the Comptroller to transfer any unexpended or unobligated funds in the BIF to the General Revenue Fund immediately before the section expires on September 1, 2035.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated as a result of the joint resolution alone. There could be fiscal implications due to the enabling legislation, House Bill 9, but these amounts are unknown.

**Source Agencies:** 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, SD, KK, LCO, CSmi, SMAT, NV

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 16, 2023**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on Finance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HJR125** by Ashby (proposing a constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.),  
**Committee Report 2nd House, Substituted**

There would be an indeterminate cost to the state due to unknown amounts and timing of any transfers or deposits to the new Broadband Infrastructure Fund (BIF).

The cost to the state for publication of the resolution is \$204,406.

The resolution would amend Article III of the constitution, adding Section 49-d-16, which creates the Texas Broadband Infrastructure Fund (BIF) in the state treasury outside of General Revenue.

The BIF would be administered by the Comptroller, and would be used to expand broadband and telecommunication services in the state. The BIF would consist of transfers or deposits made by the constitution, general law, or the General Appropriations Act. It could also consist of dedicated revenues, investment earnings and interest, and any gifts, grants, or donations to the fund. Money in the fund would be constitutionally dedicated, and therefore, not subject to the spending limit provided by Section 22, Article VIII of the Constitution.

The bill would require the Comptroller to transfer any unexpended or unobligated funds in the BIF to the General Revenue Fund immediately before the section expires on September 1, 2035.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated as a result of the joint resolution alone. There could be fiscal implications due to the enabling legislation, House Bill 9, but these amounts are unknown.

**Source Agencies:** 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, KK, LCO, CSmi, SMAT, NV

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 12, 2023**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on Finance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HJR125** by Ashby (Proposing a constitutional amendment creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HJR125, As Engrossed : a negative impact of (\$436,285,000) through the biennium ending August 31, 2025, not including the cost of publication.

In addition, the bill would result in a negative impact to General Revenue Related Funds of (\$4,833,474,000) in the biennium ending August 31, 2027. The cost to the state for publication of the resolution is \$204,406.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	(\$436,285,000)
2026	(\$3,976,584,000)
2027	(\$856,890,000)
2028	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	Probable Revenue Gain from <i>Broadband Infrastructure Fund</i>	Probable Revenue Gain/(Loss) from <i>Economic Stabilization Fund 599</i>	Probable Revenue (Loss) from <i>General Revenue Fund 1</i>
2024	\$5,000,000,000	(\$5,101,018,000)	\$0
2025	\$0	(\$189,059,000)	(\$436,285,000)
2026	\$0	\$431,161,000	(\$3,976,584,000)
2027	\$0	\$3,875,191,000	(\$856,890,000)
2028	\$0	\$670,945,000	\$0

**Fiscal Analysis**

The resolution would amend Article III of the constitution, adding Section 49-d-16, which creates the Texas Broadband Infrastructure Fund (BIF) in the state treasury outside of General Revenue.

The BIF would be administered by the Comptroller, and would be used to expand broadband and telecommunication services in the state. The BIF would consist of appropriations, transfers, and dedicated revenues, as well as gifts, grants, and donations.

The bill would require the Comptroller to transfer \$5,000,000,000 to the BIF from the Economic Stabilization Fund (ESF). This money would be constitutionally dedicated, and therefore, not subject to the spending limit provided by Section 22, Article VIII of the Constitution.

The bill would require the Comptroller to return any unexpended or unobligated funds in the BIF back to the ESF immediately before the section expires on September 1, 2035.

### **Methodology**

Fiscal impacts are based on the 2024-25 Biennial Revenue Estimate (BRE) and fiscal implications of Senate Bill 30, as engrossed, because of its effect on the ESF balance, related reserves, and transfers of severance tax revenue, and interest and investment earnings.

The \$5 billion transfer from the ESF for deposit to the BIF would decrease the ESF balance and result in a larger severance tax transfer to the ESF in fiscal years 2026 and 2027 than assumed in the BRE, as adjusted for the effects of SB 30 on the ESF balance. General Revenue Fund implications in fiscal years 2025 and 2026 represent the increase in reserves for severance taxes transferred to the ESF as a result of a decrease in the ESF balance.

Implications to the ESF represent the net difference between transfers from the ESF and increased severance taxes transferred to the fund in fiscal 2026 -27, and consequent changes to ESF interest and investment earnings.

In addition to the \$5 billion transfer to the BIF, there would be a revenue gain to the fund from earned interest on the fund balance. As the timing of expenditures from the fund is unknown, the amount of interest revenue cannot be estimated.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated as a result of the joint resolution alone. There would be fiscal implications due to the enabling legislation House Bill 9.

**Source Agencies:** 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, KK, LCO, CSmi, SMAT, NV

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**April 10, 2023**

**TO:** Honorable Todd Hunter, Chair, House Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HJR125** by Ashby (proposing a constitutional amendment creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state.),  
**Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HJR125, Committee Report 1st House, Substituted : a negative impact of (\$436,285,000) through the biennium ending August 31, 2025, not including the cost of publication.

In addition, the bill would result in a negative impact to General Revenue Related Funds of (\$4,833,474,000) in the biennium ending August 31, 2027. The cost to the state for publication of the resolution is \$204,406.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2024	\$0
2025	(\$436,285,000)
2026	(\$3,976,584,000)
2027	(\$856,890,000)
2028	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Revenue Gain from Broadband Infrastructure Fund</b>	<b>Probable Revenue Gain/(Loss) from Economic Stabilization Fund 599</b>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>
2024	\$5,000,000,000	(\$5,101,018,000)	\$0
2025	\$0	(\$189,059,000)	(\$436,285,000)
2026	\$0	\$431,161,000	(\$3,976,584,000)
2027	\$0	\$3,875,191,000	(\$856,890,000)
2028	\$0	\$670,945,000	\$0

**Fiscal Analysis**

The resolution would amend Article III of the constitution, adding Section 49-d-16, which creates the Texas Broadband Infrastructure Fund (BIF) in the state treasury outside of General Revenue.

The BIF would be administered by the Comptroller, and would be used to expand broadband and telecommunication services in the state. The BIF would consist of appropriations, transfers, and dedicated revenues, as well as gifts, grants, and donations.

The bill would require the Comptroller to transfer \$5,000,000,000 to the BIF from the Economic Stabilization Fund (ESF). This money would be constitutionally dedicated, and therefore, not subject to the spending limit provided by Section 22, Article VIII of the Constitution.

The bill would require the Comptroller to return any unexpended or unobligated funds in the BIF back to the ESF immediately before the section expires on September 1, 2035.

### **Methodology**

Fiscal impacts are based on the 2024-25 Biennial Revenue Estimate (BRE) and fiscal implications of Senate Bill 30, as engrossed, because of its effect on the ESF balance, related reserves, and transfers of severance tax revenue, and interest and investment earnings.

The \$5 billion transfer from the ESF for deposit to the BIF would decrease the ESF balance and result in a larger severance tax transfer to the ESF in fiscal years 2026 and 2027 than assumed in the BRE, as adjusted for the effects of SB 30 on the ESF balance. General Revenue Fund implications in fiscal years 2025 and 2026 represent the increase in reserves for severance taxes transferred to the ESF as a result of a decrease in the ESF balance.

Implications to the ESF represent the net difference between transfers from the ESF and increased severance taxes transferred to the fund in fiscal 2026 -27, and consequent changes to ESF interest and investment earnings.

In addition to the \$5 billion transfer to the BIF, there would be a revenue gain to the fund from earned interest on the fund balance. As the timing of expenditures from the fund is unknown, the amount of interest revenue cannot be estimated.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated as a result of the joint resolution alone. There would be fiscal implications due to the enabling legislation House Bill 9.

**Source Agencies:** 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, SMAT, LCO, CSmi, NV

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**March 28, 2023**

**TO:** Honorable Todd Hunter, Chair, House Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HJR125** by Ashby (Proposing a constitutional amendment creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state.), **As Introduced**

**No fiscal implication to the State is anticipated**, other than the cost of publication.

The cost to the state for publication of the resolution is \$204,406.

The resolution would amend Article III of the Constitution, creating the Broadband Infrastructure Fund as a fund in the state treasury outside the General Revenue Fund. The fund would be administered by the Comptroller's office and would provide a method of finance for projects relating to the development of broadband and telecommunications services in the state.

Adoption of the proposed amendment alone would have no fiscal implications to the state. Any fiscal impact would be associated with the enabling legislation, HB9.

It is assumed that any costs associated with the resolution could be absorbed using existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

**LBB Staff:** JMc, SMAT, LCO, CSmi, NV